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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,129	12/27/2005	Frans Brinkmann	MULLE42.001APC	1952
20995 7590 11/14/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER WENDELL, MARK R	
			ART UNIT 3635	PAPER NUMBER
			NOTIFICATION DATE 11/14/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

**Application No.**

10/522,129

**Applicant(s)**

BRINKMANN, FRANS

**Examiner**

Mark R. Wendell

**Art Unit**

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5 and 9-12 is/are rejected.
- 7) ☐ Claim(s) 3 and 6-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20050413</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

Claims are objected to because of the following informalities: Because of the amendments, numerous punctuation and grammatical errors occur throughout the specification. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Ono (US 6161359).

Ono illustrates in Figures 1, 2, and 15 a modular support system comprising:

- At least four stable vertical upright assembly systems (2) comprising:
  - At least one tube-shaped upright element (11) comprising a shape-retaining tube profile which on its outer circumference and over all its length is provided with a plurality of C-shaped coupling members (flanges protruding from 11) which are positioned along the outer circumference or in its longitudinal direction respectively;

- At least one tube-shaped (32) coupling member for mutually connecting two upright elements positioned on top of each other into a compact compound element;
- At least one adjustable spindle assembly (Figure 15) being attached to the lower and/or upper side of an upright assembly, which spindle assembly is provided with a coupling part (22) which is also provided with a plurality of C-shaped coupling members (flanges attached to 11);
- At least four intermediate frames (13-18) for mutually interconnecting said stable vertical upright assembly systems, each intermediate frame thereby comprising:
  - Two mutually distantly spaced parallel horizontally positioned girders (13) interconnected by means of lattice elements (15, 17), whereby each of both free ends of a girder is provided with a
    - Coupling device which connects each of the four free ends of intermediate frame with an adjacent vertical upright element and/or spindle assembly using said C-shaped coupling members (flanges on 11), in such a manner, that the modular HD support system in its assembled position is transportable as a whole and adjustable in height.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 5, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ono (US 6161359) in view of D'Alessio et al. (US 4462197). It is described above what is disclosed by Ono, however Ono does not teach a foot element with welded vertical reinforcements and a butterfly nut mounted on the spindle. D'Alessio illustrates in Figure 8:

- A spindle provided with a thread being capable of carrying a high load, which is provided at its upper end with guiding strips (43) serving for the inner concentric positioning and mounting of the spindle in a lower and/or upper end opening of the tube-shaped upright element, which spindle is provided at its bottom end with means (49, 45, 46) for positioning and anchoring in,
- A foot element (Figure 8) consisting of a foot plate which at its upper part is provided with welded vertical reinforcement plates (48) and further is provided with means (42) for anchoring of the free end of the spindle,

- A butterfly nut (49), mounted on the spindle (47), comprising a hollow cylindrical housing internally provided with screw thread (hollow area encompassing the spindle) while its bottom part is provided with a plurality of radially protruding handgrips (flanges of 49) for the adjustment of the upright assembly at the desired height and for fast dismounting by means of its rotation, having mounted on its top side a free rotatable ring (45), which on its outside is provided with a set of sheet shaped screw holders welded thereto for locking screws (46) for anchoring into the lower end opening of the tube-shaped upright element; in such a way, that the butterfly nut may be mounted to the lower and/or upper side of the upright element without blocking the rotation of the butterfly nut.
- A coupling piece (25, 26, 43) positioned on the spindle and comprising a hollow cylindrical housing (25, 26) internally provided with guiding strips (43) for its vertical guiding on the spindle.

It would have been obvious to one having ordinary skill in the art at the time of invention to modify the assembly of Ono with the footing apparatus of D'Alessio coupled with the 4 coupling members illustrated in Ono Figure 15 in order for better stability and easy manipulation (raising or lowering).

Regarding claims 5, 9 and 10, the examiner notes that it would have been obvious to one having ordinary skill in the art at the time of invention because applicant does not state criticality for necessitating the exact lengths and diameters provided in claim 5.

Also, the prior art of record (Ono in view of D'Alessio) is capable of being constructed with the length and diameter limitations as claimed. The examiner further notes that it would have been obvious to one having ordinary skill in the art at the time of invention to construct a structure with the upright elements being of the claimed lengths merely by the fact that applicant admitted that they are "standard" lengths and the broad range of lengths further supports the fact that applicant does not state criticality for that specific feature.

In further regards to claim 10, D'Alessio illustrates in Figure 8 the spindle provided with quadratic threading.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ono (US 6161359) in view of Anderson (US 4741505). It is described above what is disclosed by Ono. Ono also illustrates in Figure 4 a connecting member (32) comprising of a tube profile provided with guiding means (the channels of the upright elements) for internal mounting into the upright elements which is provided half way on its length with a ring (21) having a greater outer diameter than the upright element has, whereby both ends of the connecting member are provided with pass through openings for receiving a locking pin (31) in such a way that the lower end of the locking member is mounted from the upside down into an upright element until the ring, where after on its upper end a next upright element is located and locked respectively by means of locking pins each with an elliptical body in cross section which locking pins (31) are each provided with a

round head rivet for securing the connection between the locking pin and with the connecting piece and also with the vertical upright elements. However Ono does not teach the locking pins provided with a handgrip with a perforated rectangular plate. Anderson illustrates in Figure 7 a locking pin with a handgrip (198) positioned by means of a perforated metal plate (190, 200). The examiner also notes that the rectangular plate is capable of being welded to the ring structure of Ono. It would have been obvious to one having ordinary skill in the art at the time of invention to modify the structure of Ono to include the handgrip and plate in order to easily secure and not loose the locking pin.

Regarding claim 11, the examiner notes that it would have been obvious to one having ordinary skill in the art at the time of invention because applicant does not state criticality for necessitating the exact lengths and diameters provided in claim 11. Also, the prior art of record (Ono in view of D'Alessio) is capable of being constructed with the length and diameter limitations as claimed. The examiner further notes that the lack of criticality is further supported by the applicant defining a workable range for such measurements in claiming "approximate" lengths. Also, in regards to the locking clip for the locking pin, it would have been obvious to one having ordinary skill in the art to use a typical cotter pin assembly which is well known in the art, in order for the pin to stay located in the borehole.



Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ono (US 6161359) in view of D'Alessio et al. (US 4462197) as applied to claim 2 above, and in further view of Van Meter (US 4036466). It is described above what is disclosed by Ono and D'Alessio, however neither teaches having a borehole in the footing or reinforcing member. Van Meter illustrates in Figure 1 boreholes (50) located on the reinforcement plates on either side of the rectangular central part. It would have been obvious to one having ordinary skill in the art at the time of invention to modify the footing structure of Ono in view of D'Alessio to include the boreholes of Van Meter in order to provide attachment means for securing the footing to another stable structure.

#### ***Allowable Subject Matter***

Claims 3, 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The examiner notes that most of the coupling structure could be found in the prior art cited, however the orientation and positions of the claws cited in the claims could not be found in the cited prior art. Also, the motivation and feasibility of coupling the structures together could not be ascertained by the examiner.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schworer (US 5388666) teaches a support scaffold with C-shaped coupling

members. Johnston (US 4841708) teaches a bolted scaffolding frame. Johnston (US 4787183) teaches an adjustable truss arrangement. Morris (US 4026079) teaches an adjustable shoring scaffolding arrangement. Bowen et al. (US 3565501) teaches an adjustable footing for scaffolding. Squire (US 3190405) teaches an extendable shore with footings. Masuda et al. (US 5367852) teaches a support system with adjustable legs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark R. Wendell whose telephone number is (571) 270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Richard Chilcot  
Supervisory Patent Examiner  
Art Unit 3635

MRW  
November 2, 2007